



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,876	02/20/2002	Mark Thomas Lavelle	9623E-035100	9901

20350 7590 04/02/2004

TOWNSEND AND TOWNSEND AND CREW, LLP  
TWO EMBARCADERO CENTER  
EIGHTH FLOOR  
SAN FRANCISCO, CA 94111-3834

EXAMINER

SOBUTKA, PHILIP

ART UNIT	PAPER NUMBER
----------	--------------

2684

DATE MAILED: 04/02/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/081,876

Applicant(s)

LAVELLE ET AL.

Examiner

Philip J. Sobutka

Art Unit

2684

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): claim 16 would be allowed.
4. ☒ Newly proposed or amended claim(s) 2-16 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 16.

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-15 and 17-20.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). g.
10. ☒ Other: See Continuation Sheet

Continuation of 2. NOTE: the proposed amendment to claim 19 is the only amendment that would raise new issues, since it would be limited to a mouse or joystick, rather than the game pad of the previously applied art.

Continuation of 5. does NOT place the application in condition for allowance because: after final amendment can no longer be entered i part. Applicant's arguments regarding claim 16 were persuasive and claim 16 would be allowable. While the proposed amendments to claims 2-16 would place those claims in condition for allowance, the rejection of claims 17-19 stands. Note also that the proposed amendment to claim 19 will not be entered because it significantly alters the scope of the claim. Applicant is again reminded that the alternative recitation used by the applicant in claim 19 means that a prior art reference need only meet one of the limitations, since the claim does not necessarily cover all of the limitations. Regarding applicants statement that Cortopassi is not a gaming device, note that if the computer that was coupled to Cortopassi's input device was running a gaming program, the input device would be a gaming input device.

Continuation of 10. Other: The information disclosure statement filed 11-20-2003 fails to comply with 37 CFR 1.97(c) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered. NOTE ALSO THAT ALL OF THE PATENTS LISTED ON THE IDS ARE ALREADY IN THE RECORD SINCE THEY WERE ALL CITED BY THE EXAMINER IN THE FIRST ACTION.

  
NAY MAUNG  
SUPERVISORY PATENT EXAMINER